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STATE WATER RESOURCES CONTROL BOARD RESOLUTION 2021-

ADOPTING AN EMERGENCY REGULATION AMENDING WATER RIGHTS FEE SCHEDULES IN TITLE 23, SECTIONS 1062, 1063, 1064, 1066, 1068, 1071 AND 3833.1 OF THE CALIFORNIA CODE OF REGULATIONS

WHEREAS:

1. Pursuant to Water Code section 1058, the State Water Resources Control Board (State Water Board) has the authority to adopt regulations to carry out its powers and duties under the Water Code.
2. The Water Code further delegates authority to the State Water Board to adopt emergency regulations establishing and revising fees to be deposited in the Water Rights Fund in the State Treasury. (Wat. Code, §§ 1525, 1530, 1551, 13160.1.) The emergency regulations may include provisions concerning the administration and collection of the fees.
3. The State Water Board must set a fee schedule that will generate revenues necessary to conform to the amounts appropriated by the Legislature for specified regulatory activities. (See Cal. Code Regs., tit. 23, § 1525, subd. (d)(3).)
4. The State Water Board finds that, in accordance with section 1552 of the Water Code, the funds collected from water right fees and deposited in the Water Rights Fund will be used for administration of the water rights program, while maintaining a prudent reserve. These administrative costs, including the State Water Board's costs of administering the water right program and the costs of the California Department of Tax and Fee Administration in collecting and paying refunds of water right fees, constitute costs of state operations, plus costs of purchasing and leasing of supplies, equipment and material, and maintaining financial reserves. Because the fees are used for these purposes, they are exempt from the California Environmental Quality Act as provided in section 21080, subdivision (b)(8) of the Public Resources Code.
5. The Budget Act of 2021 delegates to the Department of Finance the authority to make specified adjustments to the amounts appropriated by the Legislature. The State Water Board has considered the anticipated adjustments that the Department of Finance will make under its delegated authority in determining the amount of fee revenues, consistent with amounts appropriated by the Legislature, that are required to support the water right program.
6. State Water Board staff prepared recommended revisions to the State Water Board's water right fee regulations in accordance with the Water Code and the fee revenue requirements as appropriated by the Legislature.

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7. The water right fee regulations and schedules being amended by this rulemaking will be contained in title 23, division 3, chapter 4.5, chapter 5 and chapter 28 of the California Code of Regulations.
8. This emergency regulations will take effect upon filing with the Secretary of State.

THEREFORE BE IT RESOLVED THAT:

1. The State Water Board adopts as an emergency regulation revisions to sections 1062, 1063, 1064, 1066, 1068, 1071 and 3833.1 of title 23 of the California Code of Regulations as recommended by staff and appended to this Resolution.
2. The State Water Board determines that adoption of California Code of Regulations, title 23, sections 1062, 1063, 1064, 1066, 1068, 1071 and 3833.1 is statutorily exempt from CEQA, and directs State Water Board staff to prepare and submit to the State Clearinghouse a Notice of Exemption reflecting this determination.
3. State Water Board staff will submit the regulations to the Office of Administrative Law (OAL) for filing with the Secretary of State.
4. If, prior to OAL filing the regulations with the Secretary of State, State Water Board staff, or the State Water Board determines that minor corrections to the language of the regulation or supporting documentation are needed for clarity or consistency, the State Water Board Executive Director or the Executive Director's designee may make such changes.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on September 22, 2021.

Jeanine Townsend
Clerk to the Board